"THE PROTECTION OF WOMEN'S RIGHTS IN INDIA : A LEGAL STUDY"

Ph.D. Synopsis Submitted

To

Swami Ramanand Teerth Marathwada University,
Nanded – 431606.

Submitted by

Shri Wadkar Laxman Narsu
(M.A. L.L.M. B.Ed)

Under the Guidance of

Dr. Bande Trimbak M
Assistant Professor
Shivaji Law College, Kandhar
Dist. Nanded.

Oct. 2017

"THE PROTECTION OF WOMEN'S RIGHTS IN INDIA : A LEGAL STUDY"

ABSTRACT OF PROPOSED WORK PLAN

1) Introduction

2) Significance of the Study (in detail)

3) Statement of Problem

4) Importance of study/society application

5) Objectives of Research

6) Proposed Hypothesis/Research questions: (Points only, numbered consecutively)

7) Methodology to be adopted:

8) Area of research

9) Limitation (if any)

10) Review of Literature

11) Proposed work plan / Formulation and structure of study.

12) Reference /Bibliography

"THE PROTECTION OF WOMEN'S RIGHTS IN INDIA : A LEGAL STUDY"

INTRODUCTION:

In every era in the history of social development the question of women and the question of gender justice remained on board. It remained on board in every era for the reason as rightly pointed out by famous Theoretician Friedrich Engels in his classical writing 'origin of the family private property and state' that women was the first human being that tested bondage. Woman was the a slave before slavery existed.

In India the constitutionally guaranteed equality for women is juxtaposed with the harsh societal reality.

The first leader of this free country, Pandit Nehru said, 'you can tell the condition of a nation by looking at the status of its women.

After seven tumultuous decades we, as a nation stand is an era of social liberation and economic prosperity. We broadcast our nation as one filled with potential and opportunity and stand as future leaders of this free world.

This trend, as to importance of natural rights, increased in 18th century in Europe. Declaration of the Rights of Woman and the Female Citizen which was published in 1791, modeled on the Declaration of the Rights of Man and of the Citizen of 1789. Beginning from 1840, the British and the United States passed statutes too protect women's property from their husbands and the husbands' creditors. Then "control over our own bodies" is a sound criticism for male domination.

SIGNIFICANCE OF THE STUDY:

Women's legal rights are one of the most significant of their status. In India a series of laws ensuring women's rights have proved largely ineffective in promoting their positions. The prime reasons for this are: the shortcomings and ineffectiveness of laws, women's inability to access legal proceedings, the traditional and cultural negative views about women's rights, the absence of an accountable and transparent government, the expensive and time consuming judicial process, the lack of an efficient judiciary, and other socio-ecomic reasons. The core theme of the thesis concentrates on the shortcoming and ineffectiveness of law, although viewing them within the context of those other factors. To signify the 'ineffectiveness of laws', emphasis is basically placed on the administrative and judicial approaches in the country to achieve the underlying objectives of law concerning women's rights in relevant areas.

This study aims to promote protection of women's rights by recommending remedies to flaws in prevailing laws in India in four areas. Recommendations are made by reference to comparative and international practices. The primary arguments developed and maintained throughout the thesis are:(i) the protection of women's rights is imperative of improve their status and law is an essential instrument to ensure these rights; (ii) the legislative, administrative and judicial efforts in India are not appropriate and conducive to dealing with women's rights; and (iii) improvements in those efforts can better protect women's rights.

This study critically examines laws regarding women's employment and political participation and the laws on dowry and rape. It also explores the ways laws have been structure and enforced in India.

STATEMENT OF PROBLEM:

This research is intended to highlight the protection of women's rights in India these rights are many but women's are not protected completely it importance in our society to provide legal aid rights, awareness to all and uses the law to ensure the rights are addressed through the legal systems.

There are so many Acts for the protection of women in our country after independence but the condition of women is not changed. Present Acts which are not sufficient for protection of women's rights so I have to research and make development in the present Acts for the betterment of women's rights.

A statement of purpose, also known as a legislative preamble, statement of objects, or statement of aims, sets the stage for the entire piece of legislation. The following elements are important to a strong and inclusive statement of purpose

- A clear statement of the purpose of the legislation as grounded in women's right to be free from gender-based violence and discrimination (Reference to international and regional principles of non-discrimination can assist in stating the purpose and in providing language to help with later interpretation of the law).
- Description of the negative impact of sexual harassment on women's safety, health, economic security, and equal status in society.
- Recognition of the negative impact of sexual harassment on society, including decreases in productivity, loss of diversity, increased costs of sick time and other leave, and legal bills, for example.

Recognition that sexual harassment has a disproportionate impact on vulnerable groups such as younger women, migrants, minorities, the poor, those with precarious legal status, and other marginalized communities.

IMPORTANCE OF STUDY:

This research is intended to highlight the protection of women's rights and improve their social, economical, political, condition.

Women play many roles during various stages of their life. As a daughter, wife mother and sister etc. they are having unique position in the society. In spite of their contribution in the life of every human being they have disadvantageous position in the society. On the one hand they are worshipped, respected as the embodiment of all virtues and discriminated in every sphere of their life: The areas in which discrimination is manifested are marriage, succession, guardianship, divorce and maintenance.

Women continue to be subjected under control of father from birth to before marriage, under husband in her married life and under son after demise of her husband. She is discriminated against men ever since she opens her eyes in the world. Not only this, in these days of modern technology like ultrasound test and amniocentesis, she is discriminated ever since she exists in the womb of the mother and has to die before birth. As she grows up violence is perpetrated on her making her life even more miserable.

Thus it is the fitness of the things to make women aware of their rights and liabilities at both International and National levels:

OBJECTIVES OF THE STUDY:

- The objective of the proposed study is to evaluate effectiveness of various provisions of the protection of women's right in India" from socio-legal perspective, so that necessary amendments, if any, can be suggested.
- Every investigation is aimed at achieving some specific objective. The objective give right direction to the investigator to conduct studies:

  The following is the main objective of the present study. To study the awareness of women's legal rights related to

  - Social Rights
  - Political Rights
  - General Rights
  - Economic Rights
- To create awareness about women's rights thereto.
- To analyze various second legal prospective and effect of various law relating to protection of women's rights.
- To study protection of women's rights under other Act, like the constitution of India 1949, personal law.
- To study and analyze the legislative as well as judicial efforts in protecting women's rights.
- To examine the various problems affecting protection of women's rights.
- To provide key issues regarding protection of women's rights
- To find out hurdles in proper implementation of law and polices relating to protection of women's rights.
- To point out lacuna existing in legal system and enforcement agencies.
- To reduce fear or phobia among women about their rights.
- There should not be gender discrimination in India in future.

HYPOTHESES:

Keeping in view the above objectives the following null hypotheses has been formulated:

Conceptual Hypothesis I:

There is no significant difference about the awareness of women's social Rights.

Conceptual Hypothesis II:

There is no significant difference about the awareness of women's General Rights.

Conceptual Hypothesis III:

There is no significant difference about the awareness of women's Economic Rights.

Conceptual Hypothesis IV:

There is no significant difference about the awareness of women's Political Rights.

Conceptual Hypothesis V:

Lack of awareness about their rights is the reason for increasing number of offences against women in India.

METHODOLOGY:

He researcher proposes to use the Doctrinal research methodology for the present research work. The research is primarily analytical and it is a library based. In order to justify the truth to be believed as knowledge, a sound research would be designed in a way through constant reasoning.

The above objective can only be achieved through meticulously designed methodology. Research Design essentially refers to the plan or Strategy of shaping the research. It deals primarily with intentions and plans within the practical constrains of location, time, finance and availability of manpower.

The purposed study, being an evaluative research, requires first and foremost an objective criterion for evaluating the effectiveness of the Act. For this study objectivity does not refer to "Value free" research rather it refer to, as in the words of Reinhanz 1992 and Mies 1993, "conscious partiality". However, one criterion shall include (a) rights of the aggrieved parties restored, (b) sense of satisfaction achieve, and (c) lowering the incidence of violence at the community level. The application of this criteria requires answering three sets of interrelated questions.

REVIEW OF LITERATURE:

Protect of women's right in India is roots in the male dominated socio-economic legal and political order (Atray 1988; Verma 1990; Nagla 1993). Assaults on women are often visibly associated with their social status, their communal, ethnic and caste identities. Implicit in all this is the treatment of women as private property to be protected by men of particular family social, communal and caste groups (Kannabiran 1996; Dasgupta 1989; Desai and Krishnaraj 1987). The notion that women need protection is linked to the traditional value placed upon their virginity and chastity. This has influenced the legal treatment of women, both in the provisions of the Indian Penal Code and in Civil Procedure (Baxi 1994; Sarkar 1994, Ahuja 1998; Devasis and Devasia 1989; Krishnaraj 1991). The literature on protection of women's right can be categorized in the three categories.

A) Women's right as behavioral and structural problem.

B) Physical and mental health consequences of Women's right

C) The role of volunteer and state agencies in dealing with protection of Women's right

When the Act was at formative stage many women organizations were active. A number of consultation meetings also held between the authorities of law commission, women commission and other voluntary organizations. There were disagreements between members on the definitions scope of the bill, on the institution of protection officer and over the rights of women to be protected. At times there were conflicting recommendations by various commissions. Shalini Singh (2003) has documented these in her paper on Domestic Violence Bill fails to deliver.

Reference /Bibliography

- Law and gender inequality by Fluvial Agnes
- Women and Law in India by 2004 Mormayel Basu and Sudhir Chandra.
- Gender and community : Muslim Women's Rights in India by Vrinda
- The History of doing : An illustrated Account of Movements for women's book by Radha Kumar.
- Research Methodology : Methods and techniques by C.R. Kothari
- Research Methodology : A step by step guide for beginners by Ranjit Kumar.
- The Happiness Hypothesis: by Jonathan Haidt.

C H A P T E R I Z A T I O N

Chapter – I	Introduction
Chapter – II	Conceptual Analysis
Chapter – III	In Indian Scenario the protection of women's Right
Chapter – IV	Legislatives / Statutes regarding protection of women's right
Chapter – V	Equal Right to Employment
Chapter – VI	Impediments to women's rights in India
Chapter – VII	Equal Right to participate in Politics
Chapter – VIII	Importance of judicial decision regarding women's right
Chapter – IX	International comparative Perspective with neighboring countries

Conclusion

CHAPTER – I

Introduction:

This chapter deals with the introductory part of the research. Being the primary stage of the research this chapter moves around the explanation and explosion of research topic. The introductory chapter gives a glance of the intention of the researcher. This chapter explores the research in its initial stages and intoruces the theme of the research and the start to end direction of the research. The introductory part talks about the basic subject of research topic i.e. what exactly is the area of research and up to what circumference the research will be in its beginning.

Women constitute a majority of world population; there is still no society in which the women enjoy full equality with men. But violence against women the most pervasive violation of rights in the world today. Cutting across economic, social, cultural and religious berries, violence against women is an insidious phenomenon affecting the lives of millions of women and taking a dismaying variety of forms. Her counterparts the man subjects all women that may be poor or rich, illiterate or literate, housewife or working, conservation or modern to more or less exploitation.

There are many cases of atrocities against women like murder for dowry, female feticide, malnutrition, materiality mortality rate, abandoned widow, trafficking, molestation, prostitution etc. which are making women vulnerable. To make women to come out all these it is necessary to make women aware of their rights.

CHAPTER – II

Conceptual Analysis:

Protection of women's right subject and with it comes many more words, terms and they must be properly elaborated in their global meanings only. This being a research topic includes many unfamiliar concepts which are not ordinarily used in day to day legal language. Hence it becomes necessary to provide for the exact meaning of all condition of women. Before we start with the research thesis it is necessary to know and understand the meaning and definitions of all conceptual phrases relevant with the research. This chapter provides the expected meanings of various legal terms and legal words and phrases as well as definitions which will be embedded throughout the research. The explanations and meanings provided in the research must be universally accepted and they should not differ from their actual and worldwide accepted meanings.

CHAPTER – III

In Indian Scenario the Protection of Women's Rights:

The Constitution of India is the mother Act of all the laws and statutes in force throughout the India. The rights and duties of people and the state are mentioned in the Constitution which is the most important part of the constitution. As this research is based on rights of women and the duties of the state in respect of those rights, it becomes inevitable to study the constitution and the provisions therein relevant with the present research. So when the research talks about the offences which affect the life and liberty of women or the acts and legal provisions related with the protection of women's rights the Prohibition of Child Marriage Act, 2006.

CHAPTER – IV

Legislatives / Statutes Regarding Protection of Women's Rights:

Article 14: The state shall not deny to any person equality before the law or the equal protection of laws within the territory of India.

Article 15(1): The state shall not discriminate against any citizen on the grounds of religion, race, sex, caste, place of birth or any of them.

Article 15(2): No citizen shall, on grounds of religion, race, caste, sex, place of birth or any of them be subjected to nay disability, liability restriction or condition with regard to :

Article 16(2): No citizen shall, on grounds of religion, race, caste, sex, descent, place of birth, residence or any of them, be intelligible for, or discriminated against in respect of, any employment or office under the state.

Article 16(3): Enables the state to make provision for women. This obviously intends to meet their special needs on account of their peculiar characteristics as women, such as the need for maternity leave before or after childbirth etc.

Important National Legislations for Protection of women:

- Protection under the Immoral traffic (Prevention) Act, 1956.
- The Dowry prohibition Act, 1961.
- Medical Termination of Pregnancy Act, 1971
- The Indecent Representation of Women Act, 1987
- Commission for Women Act, 1990
- Protection of Human Rights Act, 1993
- The Protection of Women from Domestic Violence Act, 2005
- Protection Against Sexual Harassment of Women Bill, 2005

CHAPTER – V

Equal Right to Employment:

Today as per Indian Law there is no gender difference at any work place. Indian constitution the protection of women's rights is actually protected by this term. Over all we are the same children of almighty there is no difference of caste, class, religion, language and gender.

CHAPTER – VI

Impediments to Women's Rights in India:

This chapter explores the various difficulties that prevent the appropriate and effective implementation of protection of women's rights and legal machinery while controlling the women's rights. There are various impediments in controlling protection of women's rights against women such as the inefficient legal framework, lack knowledge to law and order machinery, lack of awareness amongst women about their rights. This chapter also deals with preventive measure such as protection of women's rights organizations, various women law support cells, online police support portals, various social institutions and government orgarizations, protection of women's rights investigations.

CHAPTER – VII

Equal Right to Participate in Politics:

The political system of India and the women in parliament, cause of women's under representation. The Unfavourale political environment and low level of education of women in India.

CHAPTER – VIII

Importance of Judicial Decision Regarding Women's Right:

There are so many decisions taken by Supreme Court and many High Courts in over country for the protection of women's rights.

CHAPTER – IX

International Comparative Perspective with Neighbouring Countries :

There are nearly 208 countries in the world but it is essential to study comparatively with other countries particularly neighbouring countries of India.

Conclusion :

This chapter concludes the research thesis and provides for suggestions which can help in protection of women's rights.

Dr. Trimbak Bande M
Research Supervisor

Laxam. N. Wadkar
Research Student